

Update

June 2010

Letters from the Alternative Dispute Resolution Conference

Justice in Dispute Resolution: 7 Habits of Highly Effective Neutrals

By Josh Sundt

Even before Lela Love began her presentation on “Justice in Dispute Resolution: 7 Habits of Highly Effective Neutrals,” it was clear to me she was a long-time ADR luminary and a polished presenter. I knew that for two reasons: First, a few hours earlier I had attended her lunchtime presentation to the WSBA ADR section, where she had waxed literary with references to the infamous Jarndyce and Jarndyce case in *Bleak House*, that all too relevant nightmare of nineteenth century litigation hell. As a litigator myself, Dickens’ scene setting gives me chills of recognition:

This is the Court of Chancery, which has its decaying houses and its blighted lands in every shire, which has its worn-out lunatic in every madhouse and its dead in every churchyard, which has its ruined suitor with his slipshod heels and threadbare dress borrowing and begging through the round of every man's acquaintance, which gives to monied might the means abundantly of wearying out the right, which so exhausts finances, patience, courage, hope, so overthrows the brain and breaks the heart, that there is not an honourable man among its practitioners who would not give--who does not often give--the warning, "Suffer any wrong that can be done you rather than come here!"

Can anyone say “Worst Alternative to Negotiated Settlement”? The second reason I knew Professor Love would deliver a highly effective presentation was her title—yes, I judged the presentation by its cover. To the ordinary conference-goer like me, lists are attractive. Whether it’s the seven “secrets,” “habits,” “tips” or “golden nuggets of wisdom,” the list is irresistible. Add to the allure of the itemization the fact that Professor Love wisely refrained from including the “7 Habits” in her printed materials, and I

start to exhibit all the irrational exuberance you might expect at an eBay auction. The presentation did not disappoint.

Before launching into the 7 Habits, Professor Love engaged us in a peripatetic discussion of justice and (one of) its goals of advancing truth, arriving finally at the question: “Is there something truer than truth”? Her answer: stories. “One of the neutral’s jobs is eliciting stories and the power they contain.” This, and the philosophical discussion around this nugget, was one of the highlights of Love’s presentation, but the list itself was wise as well, and well-supported by stories. Here, for the good of the order, are the 7 Habits, in print...without the stories:

Skillful listening.

Authenticity—be real, be a person, be yourself.

Impartiality—watch carefully the subtle signals your word choice may be sending. Let “weaker” parties go first.

Humility—there isn’t much any of us really knows. Human memory is extremely malleable.

Patience—sometimes you just have to keep calm and wait.

Integrity.

Loving truth and justice.

The professor’s final advice was a motto she picked up from one of the first women’s Outward Bound expeditions, somewhere in the wilds of Minnesota:

Be tough, yet gentle
Humble, yet bold
Swayed always by beauty and truth



Understanding Race and Culture

By Maria Victoria

When it comes to mediation trainings, I usually try to attend whatever workshops are offered that provide insight on how to address conflict arising from gender and/or ethnic and cultural differences. I am particularly interested in the subject because the majority of the families I serve in my mediation practice are “mixed” or “blended,” terms frequently used to describe families of different heritage. Many clients seek my services because I am from Mexico and they assume that my bilingualism and biculturalism somehow allow me to understand the challenges they are facing. I try not to disappoint them. So I attend as many workshops as I can afford, actively looking for those words of wisdom that would allow me to serve them in a more profound manner.

Most of the time, I walk away from these “cultural trainings” with a better general understanding of the complexity of the topic, but without any real tools I can use in my day-to-day practice. This is why I was pleasantly surprised by the presentation of Anna Spain, Associate Professor of Law at the University of Colorado, during the Annual Northwest Dispute Resolution Conference, which I attended earlier this month. *Understanding Race and Culture* was the title of Ms. Spain’s interactive presentation where she defined race and culture as components of identity, ultimately influencing the way we resolve conflict. To put it in her own words, we must first try to identify who we are – *or who our clients say they are* -- before we can shift to our conflict resolution gear. The premise that race and culture are not always the criteria we use to identify ourselves resonated deeply with me.

As a blond Mexican woman I do not identify as part of the “white race” but as a Mexican who happens to have white skin (and gray hair). For me, it turns out, race and skin color are only a small part of my identity. Culture, on the other hand, is at the core my self-identity. This is why, when Ms. Spain asked the question of “who we are you?” I wrote in my small piece of paper that: I am the ocean and palm trees, piñatas and familia, black beans and quinceañeras, marimbas and sugar cane, and best of all, I am an abuela. I saved that piece of paper to remind me that I still see myself as part of the value system and traditions of the culture where I grew up. I know this is not the same for everyone.

Shortly after the training I had the privilege to facilitate a difficult conversation between several people from different countries. They came from Peru, Argentina, Nicaragua, Mexico, Cuba and the United States. As we began, I asked them to write down who they were in a piece of paper. You guessed it. None of them refer to their country of birth to describe themselves. Still, we were able to move forward respecting each other’s identity *as they themselves defined it*. I am grateful for the lesson learned from Ms. Spain.



The Current State of Mediation in the Northwest

By Colleen James

Sam Imperati led a very interactive and entertaining discussion about the Current State of Mediation in the Northwest during the second session of the conference on Friday. The discussion revolved around the statistical analysis his self admittedly unscientific pre-conference survey results. I found the most interesting part of the discussion to be; 1) where most ADR practice occurs and; 2) the sensitivity involved in choosing a term to describe ADR participants.

According to Mr. Imperati’s survey, the conference attendees do most of their ADR practicing in some sort of volunteer capacity (48.2%). This is not a complete surprise given the abundance of ADR programs in the Puget Sound area alone that depend on volunteers to function. But what is impressive is that almost all mediators, most of whom are volunteers, had taken a basic mediator skills training, and 86.1% of survey respondents went on to take an advanced mediator skills training. The interplay between the finding that about half of the attendees are volunteer mediators and the results to the apparently sensitive question of what term best describes the people and organizations participating in ADR was truly interesting.

Most attendees responding to the survey consider ADR to be a profession (38.2%), closely followed by those who consider ADR to be a practice (30%) and a field (30%). None of the answer options in the survey included a definition. The results of this survey question sparked a lively discussion. Another question in the survey was “What did you do before becoming a mediator?” Most had worked in law. Lawyers seemed to be the driving force behind those who consider mediation a profession, seemingly based on the fact that they have a professional license. As a lawyer, I tend to lean towards the idea that I am in the Legal Profession, *practicing* mediation. There was great difficulty in the discussion reconciling that fact that mediation requires no license or specific education, yet some wished to call it a profession.

The overall impression of the discussion seemed to be that there are a variety of individuals engaging in mediation, many as volunteers, and that everyone would like to be doing more mediation work. Many believe that individuals with conflicts would enlist the services of a mediator more frequently if there were a more concrete definition of what it is to be a mediator and what it takes to become a mediator. Perhaps that is true, but many communities already have unofficial mediators in the form of community and religious leaders and I think there is merit to the idea that we can all be mediators.



Parent—Teen Update

By
Cathy Goldman

At the end of the summer, I will be retiring from my position as coordinator of the Parent-Teen Mediation Program. I have enjoyed working with the adults and teens for the past 11+ years. It has been a joy for me to be part of our powerful model of teens and adults working together.



I will be leaving our program in good hands! Gwen, our program assistant, will be the main contact person. She will coordinate the in-services and set up the mediations. Gwen, Andrew and Cheryl will mentor the mediators and assist with the case management. I will be traveling a fair bit, but will mediate cases when available so I will still be around and would be happy to write letters of recommendation for the seniors next year!

Thanks for your dedication to the program. It has been a pleasure working with you all!

BNMP Training Opportunities For Mediators and Conciliators

Mediation Training:

Parent-Teen Mediation Training 2010

Mon. *June 21st* through Fri. *June 25th*
8:30 am — 5:30 pm each day

Cathy Goldman's Retirement Party

Mon. *June 28th* from 4 pm to 6 pm
Bellevue City Hall, Room 1E-112
We will honor Cathy and her 11+ years with the Parent-Teen Mediation Program. All are welcome!

Workshop:

Managing High Conflict People in Mediation

with Bill Eddy LCSW, Esq.

Wed. *July 21st*, from 6:00-9 PM in room 1E-108
Cost: \$50.00

Issues involving "high conflict" people appear to be increasing in mediation, in our personal lives and in our workplaces. Some of the behaviors may include intense negative emotions, repeated personal attacks, splits in neighborhoods and community organizations, and little apparent interest in resolving the issues at hand. This seminar provides information about predictable patterns of five types of high conflict people with case examples. Ten tips will be provided for mediators to use in managing disputes, such as respect, calming negative emotions, focusing on tasks and setting limits. An opportunity to discuss difficult cases will be provided. This workshop will be helpful to anyone involved in a dispute with someone with a high conflict personality.

You will learn—

- To identify five common high conflict personality patterns.
- Ten tips for managing these personalities, particularly in mediation.

For more information or to register:
call 425-452-4091 or email:
gjones@bellevuewa.gov

Program Staff:

Program Co-Manager:	Cheryl Cohen	-	452-5222
Program Co-Manager:	Andrew Kidde	-	452-5288
Program Assistant	Gwen Jones	-	452-2897
Parent-Teen Coordinator:	Cathy Goldman	-	452-4091

City of Bellevue website: <http://www.bellevuewa.gov>
(Look for the Mediation Program under "Neighborhood Information")

Volunteer Profile:

Yael Horwitz



I am currently a junior at the International School in Bellevue. I was trained in mediation in the summer of 2008 and have been mediating since shortly thereafter. Mediation is very fulfilling for me. I think it's great that by using a set of basic conflict resolution skills this process can help people in all sorts of situations and from all kinds of backgrounds. Mediation has not only given me the skills to handle conflict better, but to better understand people and be a more sympathetic person in general. Understanding different viewpoints and learning how to accept them are concepts that will always be important in our world. I am grateful that I've had the opportunity to mediate, learn so much, and meet all the fantastic people that I have throughout the process. In addition to mediation, I participate in Destination Imagination (a creative problem solving and acting competition), other forms of community service, and a debate club through my school.

BELLEVUE NEIGHBORHOOD MEDIATION PROGRAM

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